

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES H. GORBEY, JR.,
Administrator of the
Estate of Marissa Rose
Fishman, Deceased,

Plaintiff,

v.

RICHARD LONGWILL, BARBARA
LONGWILL, AIR BASE CARPET
MART, INC., d/b/a Air Base
Distributing, Inc., d/b/a
Air Base Carpet Mart, AIR
BASE DISTRIBUTING, INC.,
ASHLAND CONSTRUCTION
COMPANY, INC., JOSEPH
RIZZO & SONS CONSTRUCTION
VINCENT RIZZO CONSTRUCTION
CO., INC., d/b/a Ashland
Construction Co., Inc.,
JOSEPH V. RIZZO, VINCENT
RIZZO,

Defendants.

C.A. No. 05-211 KAJ
JURY TRIAL DEMANDED

Deposition of ROCHELLE B. LONGWILL, taken
pursuant to notice at the law offices of Murphy,
Spadaro & Landon, 1011 Centre Road, Suite 210,
Wilmington, Delaware, beginning at 3:15 p.m. on
Tuesday, March 7, 2006, before Heather M.
Triozzi, Registered Professional Reporter,
Certified Shorthand Reporter, and Notary Public.

1 was when you did find Marissa in the pool?

2 A. I don't.

3 Q. Okay. Well --

4 A. I don't know.

5 Q. According to the police report, it may or
6 may not be accurate --

7 A. 10:13, 10:21.

8 Q. Do you know if it was sometime after
9 10:00?

10 A. Sure. It must have been sometime after
11 10:00, because when I think about it, I was
12 probably at the hospital by 10:30.

13 Q. I'll represent to you that in all of the
14 information that I've reviewed from the
15 investigator for Sierra Claims Service, and the
16 police report, and the statements that you have
17 given, that your father has given, no one seems
18 to be able to place Marissa, her whereabouts at
19 any time after about 9:30 in the morning until
20 she was found in the pool.

21 MR. LESSNER: There's no question
22 pending.

23 BY MR. LANDON:

24 Q. Okay. That's just a representation that

1 I'm making.

2 I want you, for purposes of this
3 next question, to assume that to be the case.

4 All right.

5 Do you have any reason or any
6 knowledge from any source where anyone can place
7 Marissa's whereabouts at any time between 10:30
8 or between 9:30 a.m. and 10:13 a.m. in the
9 morning?

10 MR. LESSNER: Objection; compound.

11 Form.

12 BY MR. LANDON:

13 Q. You can answer the question.

14 MR. LESSNER: If you understand it.

15 THE WITNESS: If I'm understanding
16 this clearly, you're saying have I spoken to
17 anybody or figured out any point in time between
18 9:30, and 10:00, or something the whereabouts --

19 BY MR. LANDON:

20 Q. 9:30 and 10:15 where anyone can say where
21 Marissa was or what she was doing?

22 A. Not speaking to anybody, nor myself going
23 back down with the kids. And -- no.

24 Q. Okay. So you would agree, then, as far as

1 you're concerned, and as far as you know, you
2 yourself, there is no one that can identify where
3 she was at any given time between 9:30 and 10:13?

4 MR. HART: Objection.

5 BY MR. LANDON:

6 Q. You can answer the question.

7 MR. LESSNER: If you understand it.
8 You can ask him to repeat it.

9 THE WITNESS: Well, can you repeat
10 the question?

11 BY MR. LANDON:

12 Q. Okay. As far as you know, no one can
13 account for Marissa's whereabouts between 9:30
14 a.m. and 10:13 a.m. that morning?

15 MR. LESSNER: The objection -- just
16 so I'm clear, when you say no one can account,
17 she's testifying as to her personal knowledge.
18 Are you asking her whether she has knowledge of
19 statements that somebody else has said?

20 BY MR. LANDON:

21 Q. Do you have any knowledge that anyone has
22 any knowledge --

23 A. I don't have any knowledge.

24 Q. Hold on. Let me ask the question.

1 Do you have any knowledge that there
2 is any person on the planet that has any
3 knowledge as to Marissa's whereabouts between
4 9:30 a.m. and 10:13 a.m.?

5 A. I don't know.

6 Q. In other words, she could have been in
7 that pool from 9:30 that morning or she could
8 have been in that pool from --

9 MR. LESSNER: Objection. It calls
10 for speculation. She can only testify as to what
11 she knows.

12 BY MR. LANDON:

13 Q. And I'm trying to get at what she knows
14 from the opposite way from what she doesn't know.
15 And what you don't know is you don't know what
16 time Marissa actually got into that pool
17 enclosure area --

18 A. Correct.

19 Q. -- and got into the pool?

20 All right. Thank you.

21 You don't know what time the door
22 from the dining area to the pool area was opened,
23 do you?

24 MR. LESSNER: Objection; form.

1 I think you said do you not know.

2 MR. LANDON: No, I didn't.

3 BY MR. LANDON:

4 Q. Do you know what time the pool door --

5 A. I turned a corner, I saw a door open.

6 Q. Okay. And that door may have been opened
7 for a minute, or it may have been opened for 45
8 minutes for all you know?

9 A. I don't know.

10 Q. Okay. And you don't know who opened it,
11 do you?

12 A. Correct.

13 Q. And you don't know whether it was opened
14 multiple times that morning, or just one time, or
15 two times, or three times that morning; correct?

16 A. Correct.

17 Q. Were any of your older kids capable of
18 opening that door?

19 A. No.

20 Q. Is that because it was too heavy to open
21 or --

22 A. There's a lock on the top.

23 Q. What if it's unlocked at the top, could
24 your oldest child have opened the door?